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**UNITED STATES DISTRICT COURT  
 EASTERN DISTRICT OF PENNSYLVANIA**

MICHAEL SCAVO, individually and ) Case No.  
 on behalf of all others similarly situated,)

Plaintiff,

vs.

ATLANTIC RECOVERY  
 SOLUTIONS, LLC; DOES 1-10,  
 inclusive,

Defendant(s).

**CLASS ACTION**

**COMPLAINT FOR VIOLATIONS  
OF:**

1. NEGLIGENT VIOLATIONS  
OF THE TELEPHONE  
CONSUMER PROTECTION  
ACT [47 U.S.C. §227 ET  
SEQ.]
2. WILLFUL VIOLATIONS  
OF THE TELEPHONE  
CONSUMER PROTECTION  
ACT [47 U.S.C. §227 ET  
SEQ.]

**DEMAND FOR JURY TRIAL**

Plaintiff MICHAEL SCAVO ("Plaintiff"), individually and on behalf of all  
 others similarly situated, alleges the following upon information and belief based  
 upon personal knowledge:

**NATURE OF THE CASE**

1. Plaintiff brings this action individually and on behalf of all others  
 similarly situated seeking damages and any other available legal or equitable

1 remedies resulting from the illegal actions of ATLANTIC RECOVERY  
2 SOLUTIONS, LLC ("Defendant") in negligently, knowingly, and/or willfully  
3 contacting Plaintiff on Plaintiff's cellular telephone in violation of the Telephone  
4 Consumer Protection Act, 47 U.S.C. § 227 *et seq.* ("TCPA"), thereby invading  
5 Plaintiff's privacy.

### 6 JURISDICTION & VENUE

7 2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff,  
8 a resident of Pennsylvania, seeks relief on behalf of a Class, which will result in at  
9 least one class member belonging to a different state than that of Defendant, a  
10 company with its principal place of business and State of Incorporation in New  
11 York state. Plaintiff also seeks up to \$1,500.00 in damages for each call in violation  
12 of the TCPA, which, when aggregated among a proposed class in the thousands,  
13 exceeds the \$5,000,000.00 threshold for federal court jurisdiction. Therefore, both  
14 diversity jurisdiction and the damages threshold under the Class Action Fairness  
15 Act of 2005 ("CAFA") are present, and this Court has jurisdiction.

16 3. Venue is proper in the United States District Court for the Eastern  
17 District of Pennsylvania pursuant to 18 U.S.C. 1391(b) and 18 U.S.C. § 1441(a)  
18 because Defendant does business within the state of Pennsylvania and Plaintiff  
19 resides within this District.

### 20 PARTIES

21 4. Plaintiff, MICHAEL SCAVO ("Plaintiff"), is a natural person  
22 residing in Ridley Park, Pennsylvania and is a "person" as defined by 47 U.S.C. §  
23 153 (39).

24 5. Defendant, ATLANTIC RECOVERY SOLUTIONS, LLC  
25 ("Defendant"), is a company involved in consumer debt buying and  
26 recovery/collection and is a "person" as defined by 47 U.S.C. § 153 (39).

### 27 FACTUAL ALLEGATIONS

28 6. Beginning in and around November of 2017, Defendant contacted

1 Plaintiff on his cellular telephone, ending in -8055, in an attempt to collect an  
2 alleged outstanding debt.

3 7. Defendant often left voicemail messages on Plaintiff's cellular  
4 telephone if Plaintiff did not answer Defendant's calls. In these messages,  
5 Defendant utilized an "artificial or prerecorded voice" as prohibited by 47 U.S.C.  
6 § 227(b)(1)(A).

7 8. Defendant used an "automatic telephone dialing system," as defined  
8 by 47 U.S.C. § 227(a)(1) to place its daily calls to Plaintiff seeking to collect the  
9 debt allegedly owed

10 9. Defendant's calls constituted calls that were not for emergency  
11 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

12 10. Defendant's calls were placed to telephone number assigned to a  
13 cellular telephone service for which Plaintiff incurs a charge for incoming calls  
14 pursuant to 47 U.S.C. § 227(b)(1).

15 11. Accordingly, Defendant never received Plaintiff's "prior express  
16 consent" to receive calls using an automatic telephone dialing system or an artificial  
17 or prerecorded voice on her cellular telephone pursuant to 47 U.S.C. § 227(b)(1)(A).

18 12. Defendant called Plaintiff from the telephone number (484) 679-4220  
19 on November 2, 2017; November 22, 2017; December 8, 2017; and on December  
20 28, 2017.

### 21 **CLASS ALLEGATIONS**

22 14. Plaintiff brings this action individually and on behalf of all others  
23 similarly situated, as a member of the proposed class (hereafter "The Class")  
24 defined as follows:

25 All persons within the United States who received any  
26 collection telephone calls from Defendant to said  
27 person's cellular telephone made through the use of any  
28 automatic telephone dialing system or an artificial or  
prerecorded voice and such person had not previously

1 consented to receiving such calls within the four years  
2 prior to the filing of this Complaint

3 15. Plaintiff represents, and is a member of, The Class, consisting of All  
4 persons within the United States who received any collection telephone calls from  
5 Defendant to said person's cellular telephone made through the use of any  
6 automatic telephone dialing system or an artificial or prerecorded voice and such  
7 person had not previously not provided their cellular telephone number to  
8 Defendant within the four years prior to the filing of this Complaint.

9 16. Defendant, its employees and agents are excluded from The Class.  
10 Plaintiff does not know the number of members in The Class, but believes the Class  
11 members number in the thousands, if not more. Thus, this matter should be  
12 certified as a Class Action to assist in the expeditious litigation of the matter.

13 17. The Class is so numerous that the individual joinder of all of its  
14 members is impractical. While the exact number and identities of The Class  
15 members are unknown to Plaintiff at this time and can only be ascertained through  
16 appropriate discovery, Plaintiff is informed and believes and thereon alleges that  
17 The Class includes thousands of members. Plaintiff alleges that The Class  
18 members may be ascertained by the records maintained by Defendant.

19 18. Plaintiff and members of The Class were harmed by the acts of  
20 Defendant in at least the following ways: Defendant illegally contacted Plaintiff  
21 and Class members via their cellular telephones thereby causing Plaintiff and Class  
22 members to incur certain charges or reduced telephone time for which Plaintiff and  
23 Class members had previously paid by having to retrieve or administer messages  
24 left by Defendant during those illegal calls, and invading the privacy of said  
25 Plaintiff and Class members.

26 19. Common questions of fact and law exist as to all members of The  
27 Class which predominate over any questions affecting only individual members of  
28 The Class. These common legal and factual questions, which do not vary between



1 Class members, and which may be determined without reference to the individual  
2 circumstances of any Class members, include, but are not limited to, the following:

- 3 a. Whether, within the four years prior to the filing of this  
4 Complaint, Defendant made any collection call (other than a  
5 call made for emergency purposes or made with the prior  
6 express consent of the called party) to a Class member using  
7 any automatic telephone dialing system or any artificial or  
8 prerecorded voice to any telephone number assigned to a  
9 cellular telephone service;
- 10 b. Whether Plaintiff and the Class members were damages  
11 thereby, and the extent of damages for such violation; and
- 12 c. Whether Defendant should be enjoined from engaging in such  
13 conduct in the future.

14 20. As a person that received numerous collection calls from Defendant  
15 using an automatic telephone dialing system or an artificial or prerecorded voice,  
16 without Plaintiff's prior express consent, Plaintiff is asserting claims that are  
17 typical of The Class.

18 21. Plaintiff will fairly and adequately protect the interests of the members  
19 of The Class. Plaintiff has retained attorneys experienced in the prosecution of  
20 class actions.

21 22. A class action is superior to other available methods of fair and  
22 efficient adjudication of this controversy, since individual litigation of the claims  
23 of all Class members is impracticable. Even if every Class member could afford  
24 individual litigation, the court system could not. It would be unduly burdensome  
25 to the courts in which individual litigation of numerous issues would proceed.  
26 Individualized litigation would also present the potential for varying, inconsistent,  
27 or contradictory judgments and would magnify the delay and expense to all parties  
28 and to the court system resulting from multiple trials of the same complex factual

1 issues. By contrast, the conduct of this action as a class action presents fewer  
 2 management difficulties, conserves the resources of the parties and of the court  
 3 system, and protects the rights of each Class member.

4 23. The prosecution of separate actions by individual Class members  
 5 would create a risk of adjudications with respect to them that would, as a practical  
 6 matter, be dispositive of the interests of the other Class members not parties to such  
 7 adjudications or that would substantially impair or impede the ability of such non-  
 8 party Class members to protect their interests.

9 24. Defendant has acted or refused to act in respects generally applicable  
 10 to The Class, thereby making appropriate final and injunctive relief with regard to  
 11 the members of the California Class as a whole.

## 12 **FIRST CAUSE OF ACTION**

### 13 **Negligent Violations of the Telephone Consumer Protection Act**

#### 14 **47 U.S.C. §227 et seq.**

15 25. Plaintiff repeats and incorporates by reference into this cause of  
 16 action the allegations set forth above at Paragraphs 1-25.

17 26. The foregoing acts and omissions of Defendant constitute numerous  
 18 and multiple negligent violations of the TCPA, including but not limited to each  
 19 and every one of the above cited provisions of 47 U.S.C. § 227 et seq.

20 27. As a result of Defendant's negligent violations of 47 U.S.C. § 227 et  
 21 seq., Plaintiff and the Class Members are entitled an award of \$500.00 in statutory  
 22 damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

23 28. Plaintiff and the Class members are also entitled to and seek  
 24 injunctive relief prohibiting such conduct in the future.

## 25 **SECOND CAUSE OF ACTION**

### 26 **Knowing and/or Willful Violations of the Telephone Consumer Protection** 27 **Act**

#### 28 **47 U.S.C. §227 et seq.**

29. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-29.

30. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of 47 U.S.C. § 227 *et seq.*

31. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227 *et seq.*, Plaintiff and the Class members are entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

32. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests judgment against Defendant for the following:

### **FIRST CAUSE OF ACTION**

#### **Negligent Violations of the Telephone Consumer Protection Act**

#### **47 U.S.C. §227 *et seq.***

- As a result of Defendant's negligent violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to 47 U.S.C. 227(b)(3)(B).
- Any and all other relief that the Court deems just and proper.

### **SECOND CAUSE OF ACTION**

#### **Knowing and/or Willful Violations of the Telephone Consumer Protection Act**

#### **47 U.S.C. §227 *et seq.***


- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to

1 and request treble damages, as provided by statute, up to \$1,500, for  
2 each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47  
3 U.S.C. §227(b)(3)(C).

- 4 • Any and all other relief that the Court deems just and proper.

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6 Respectfully Submitted this 9th Day of March, 2018.

7  
8 LAW OFFICES OF TODD M. FRIEDMAN, P.C.

9  
10 By:   
11 Cynthia Z. Levin, Esq.  
12 Law Offices of Todd M. Friedman  
13 Attorney for Plaintiff  
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